

To the KING S most Excellent Majest<sup>y</sup>,

And the

Lords and Commons now assembled in Parliament.



(11)

*Reasons offered in order to the passing an Act  
of Parliament against Imprisonment by Arrests  
upon the Writs of Capias, Bills of Middle-  
sex & Latitats, Outlawries, and vexatious,  
dilatory Writs of Error as now practised.*



LL Pleas are either *Placita Corona*, Mirror.cap.1.  
otherwise called *Criminalia*; or *Com-* Set. 4. Stamf.  
*muniā*, otherwise called *Civilia*. pl. cor. fol. 1.  
cooke 2. Instit. fol. 22.

In all criminal causes, whereto the King was alwayes a party, the bodies of men at the Common Law, were subject to Arrests, and Imprisonments: So where the Action was *ri* Sir Will. Hey.  
*& Armis*, a *Capias Lay* in Process, and *beris case, e. 3.*

in such case a *Capias Lay* after judgement, the King might have a *Capias pro fine*; And where a man was a Debtor, Rept. cookes  
2 Instit. f. 394. or Accomptant to the King, His Body, Goods, and Lands were liable to the execution of the King.

Mr. Kitchen saith, That by the Ancient Common Law kitchen retorne of the Land, the Process in Common Pleas was Sum- Brev. f. 4. tit.  
mons, Attachment; and Distresse infinite; the *Distrin-* Com. Bauc.  
*gas* being successively distant fifteen dayes one from another.

A

At

Writs. Per-  
vers Case 3.  
Rept.  
Cookes 2. In-  
stit. fol. 394.

At the Common Law, where a Subject recovered a judgement for Debt or Damages, he could not (except in some particular cases) take the Body of the Defendant in Execution, or his Lands, But his Goods and Chattels, and the profits of his Lands; For which purpose, The Law gave two several Writs, one a *Levari facias* whereby the Sheriff was commanded *Quod de terris & Ca- tallis levari faciat, &c.* And the other a *Fieri facias*, which was onely, *De bonis & Catallis*.

Cookes 2. Instit.  
ibid.

This being the Ancient Common Law of the Land, That the Body should not be taken in Execution for Debt or Damages, unless it were in special cases; The Lord Cooke saith, That the reason thereof was, That the person should be at Liberty, not onely to follow his affaires and busines; but should be ready to serve the King, and the Country when need should require.

Magnacharta.  
cap. 29.

*Magna Charta* confirmes the Law and usage in this particular, Chap. 29. which was made in the 9<sup>th</sup>. year of H.3. which establisheth, *Quod nullus liber homo capietur, aut im- prisoneatur, &c. nisi per judicium parium suorum, vel per legem terra.*

Marlbridge.  
cap. 23.

The first Act of Parliament, That made the person liable to an Arrest in Common Pleas, was *Marlbridge cap. 23.* made 25. H.3. Whereby a *Capias* was given in Accompt, if the Accomptant had not Lands, whereby to be distrained.

Cook 2. Instit.  
fol. 143.

The mischief before this Statute (saith the Lord Cook) was, That the Accomptants, (seeking Subterfugies) did withdraw themselves, and became Vagrant, flying to secret places, sometimes into Forrein Counties, and had no Lands or Tenements, whereby they might be distrained, so as the Lords were (in a manner) remediless.

Westminst. 2.  
cap. 11.  
Cook 2. Instit.  
fol. 380.

By *Westminster, 2. cap. 11.* made in the 13. year of *Edw. I.* *Exigent* is given against Accomptants, as Bayliffs, and Receivers, but not against *Guardians* in Soccage, as the Lord Cook saith, so might such Accomptants be committed

ted to prison, by Auditors, being found in Arre

There was a mischief amongst Merchants and  
men, for want of a more speedy recovery of their  
then the Common Law gave, by reason Merc'  
Tradesmen could not trade without ready mo  
Merchants Strangers were enforced to stay he  
then their Trading required, for recovery of t  
And therefore the Statute of *Acton Burnel*, wa  
11<sup>th</sup>. of *Edw.* the 1. whereby a Statute Merchant  
sed; And the Body of the Cognizor made liab  
moveables were not sufficient, whereupon to  
Debt; And afterwards the Statute *de Mercatoribus*  
13<sup>th</sup>. of *Edw.* 1. adds further strength to this  
makes the Body, Goods, and Lands of the Cogn  
in a Statute Merchant; These two Laws were  
for the more speedy recovery of Debts betw  
chants.

The next Statute was, the 25th. *Edw.* 3. cap.  
gives the like Process in Actions of Debt, as i  
and in Detinue of Cattel, and taking of Beasts.

By the 19th. of *H.* 7. cap. 9. like Process wa  
Actions one the Case; as in Actions of Trespass, &c  
the Kings-Bench, or Common Pleas.

By the 23<sup>th</sup>. of *H.* 8. cap. 14. like Process in eve  
of *Annuity* and *Covenant* is given, as in *Debt*.

Thus by degrees Mens Persons by several A&  
liament made in the Raigns of several Kings  
liable to Arrests and Imprisonments: in Common  
as namely Actions of Debt Accompt, Detinue, T  
Annuity, upon the Case Covenant.

It is said in Sir *William Herberts* Case 3<sup>d</sup> R  
Argument upon this Subject, That the Com  
founded upon the perfection of *Reason*, And i  
be many great important *Reasons*, Why the Ancie  
mon Law should be again restored in this poir  
Not to insist upon that, which the Lord Co.

Mischief, that introduced the *Capias* upon the said  
Statute of *Marlebridge*, which was the first Statute made  
in such Process; Which was because Accomptants withdrew  
themselves out of the power of the Lords, And  
therefore the Lords obtained a *Capias* to take them, where  
they could find them, to bring them to an Accompt; the  
Accomptants withdrawing themselves was  
the reason for obtaining a *Capias*, if this Process makes  
Mistress and Accomptants more obscure, and withdraws  
themselves, so as they dare not appear to follow  
their Estates, or manage their Estates to the best advantage  
thereby to enable themselves to pay their Debts for  
*Sheriffes*, *Bayliffs*, *Sergeants &c.* who lye in waite  
: It may seem a good Reason for taking away that  
Statute. For when a Statute is made to remedy a Mischief,  
the Mischief is increased by it, That may be a Ground  
away that Statute, as well as to make it.

*Advances*, which the Act of the 25<sup>th</sup> of *Edw. 3.* and  
is (on which the Writts of *Capias &c.* are grounded)  
introduced upon the People and Subjects of this  
Kingdome were such; That they languish to utter Ruine in  
consequence thereof, as daily appears by these ensuing  
Commitments upon Arrests by *Capias*, Bills of *Mid-  
gates*, *Latitatis &c.*

Men are Arrested oft times for pretended great  
Misdemeanours, when in truth the persons Arrested may owe nothing;  
the violence offered is upon *Spleen*, *Revenge*, or *Policy*:  
the persons thus Arrested, (whether the Actions be Real  
or Fictitious,) if worth a 1000*l.* more or lesse, when committed  
to Prison, are suddenly reduced to nothing by the un-  
mercenary of *Jaylers*; by which imprisonment, they  
sustain the losse of Credit, exposed to *Cheats*  
*Oppression*, by pretended friends, tennants, Servants  
whom not bereft of all endeavours and employ-  
ment, besides the losse of Health, Separated from their  
Families, and what else is dear to any man; left

left only to be buried alive, to be tormented with the Debaucheries of a Prison, and their own discontents; by which it appears this weapon (at the pleasure of any man to use) doth devour and rob the Kingdome of as able and active Persons to serve their Country in Peace and War, in any Condition whatsoever, as any other living in it, by destroying thousands of them in holes and Dungeons to satisfy private interest; to the great and unheard oppression and ruine of the good People and Subjects of this Kingdome.

Secondly if the Arrest be in a Corporation, if a Stranger, he must there lye in prison, if not bailed by free-men of that Corporation; if the Person so Arrested will not there lye in Prison, He must remove himself by *Habeas Corpus*, by which charge, and fees to *Jaylers*, *Sheriffs*, *Bayliffs*, *Sergeants*, *Keepers*, *Waiters &c.* increasing in a large proportion, the Debtor becomes greatly if not altogether disabled for the payment of his just Debts.

Thirdly, if the Prisoner Arrested be removed by *Habeas Corpus*, and brought up before a Judge, and be not there able to put in Bayle, the Prisoner is then sent to the Prison of the Kings-Bench, or the Fleet.

If to the Kings-Bench, then must helye three termes there before the party that Arrested him, by the Rules of that Court, is bound to declare upon what Cause of Action the party need on the party so Arrested is imprisoned, and upon a new not declare Action then entred may continue the Prisoner in Prison till Easter three terms longer without a Declaration, and so from Term following three terms to three terms as long as the Creditour pleases, to the destruction of the Person thus causlessly and maliciously Arrested.

If Committed to the Fleet, there can be no Declaration filed against the Prisoner unless (by *Habeas Corpus*) he be brought to the Common Pleas Barr first there to be charged; And whether the Action be Feigned or Real, -the *Magna Charta* Prisoner hath no remedy at all for such Arrest, wrong, cap. 29.

This ruins  
most men, but  
is loss of cre-  
dit to all; be-  
sides if it be  
remote from  
London, it may  
cost 50. or  
60.l.

oppression , imprisonment , losse of Credit and Damage sustained in his Estate , it may be to the Ruine of him , his Wife , and Family .

4. Fourthly , the words of the Action for Debt , is but a  
 (The words) Surmise , and it is a most desperate thing for a man to be actually imprisoned upon a Surmise onely .  
*Debet ut dicit.*

5. Fifthly Arrests and Imprisoments take away all industry and endeavours from all men , and by the want of mens Liberties the Kingdome sustaines great damage , The parts and abilities of mens minds and Bodies , in their several Capacities , being stifled , and buried alive in Dungeons , and loathsome Prisons ; Whereas mens Liberties , and industries hath enabled thousands of men to pay their Debts , and raise their Fortunes , which by restraint had been impossible : Imprisoning and immuring of men , fitting them only to have all they have torn from them to satisfie the Cruelty of Jaylors , their Adherents , and dependants ; for whilst a prisoner hath money , he may do what he list ; But when all is gone , then is he put into the Common Jayle , and there buried alive ; And if a poor labouring man , or Tradesman borrow or become engaged for ten or twenty pounds more or less upon his own security , or otherwise , by his Liberty and Freedom to follow his Calling , or Labour , perhaps earns thirty or forty pounds a year , and is hereby enabled to disingage , and make payment of his Debts , and to provide for his Family whilst he is so at Liberty ; But when once Arrested and cast into Prison , his Credit is lost , his endeavors in his Calling , and Labour taken from him , and suddenly bereft of all he hath , and himself Wife and Children left to perish by beggary and misery ; which poor man before his Arrest and Imprisonment was able by his Liberty , Labour , and endeavor to have maintained his Credit , paid his Debts , and provided for his Wife and Children .

6. Sixthly , Arrests are dangerous in the consequents , for many times men (being sensible of the sad effects that Impris-

prisonment doth produce) do fortify themselves against the same, and there upon Murthers and Man slaughters do happen to the ablest of men, both for parts, estates and qualities, and thereby become subject to the force, rudeness, and vilest usage of the worst of men, merciless, and cruel, for Bayliffs, Serjeants, and Marshals men, regard neither Age, Sex, nor condition, or quality, for that the Arrest and violent attempts made to enslave men, serves only to enrich Under-Sheriffs, Bayliffs, Serjeants, Catchpoles, Jaylors, and such like, and for maintenance of their Ryot, Excessive Drunkenness and Debauchery, for which cause they use all manner of cruelty, taking Bribes of all hands, buying and selling both Creditor and Debtor for their own profits sake, apprizing and under-selling to their own uses for the tenth part of the worth of the poor Prisoners Goods and Chattels; So the greatest part being devoured by these Canibals, the Prisoner, and his Family is thereby utterly undone, and destroyed, and the Creditor, in all things (but his malice) left altogether unsatisfied.

Seventhly, Great damages are frequently recovered against Sheriffs and Jaylors upon Rescues, and escapes made, as every days experience brings forth.

Eightly charge a Prisoner in Execution, and *No habeas Corpus* and *testificandum* is admitted, or if you have a tryal such a day, and do fear the testimony of such a Person, Arrest him upon an Action of great value, that he may not find Bail, (besides the discredit he shall have) you have your ends, for he cannot come to testify; so that men by such practises are not onely buried alive as to themselves and Families as aforesaid to all purposes; But also as to all other Persons whatsoever, that necessarily may require their testimony upon ever so great concernment, either for life or estate.

Ninthly, What man of ever so great estate can tell, but that his Son or some heir of his estate, may either by their own Folly, *Suretieships*, *Outlawry*, or other Casualty, be undone,

*Sheriffs and  
Jaylors un-  
done by es-  
capes and  
Rescues.*

8.

9.

done and so made liable to the Law in practice, to a Jayle, & all the deploreable miseries thereunto attending; Where-as had he the *Heireship* (that is) the Liberty of his Person by descent, he might by his Ingenious industry raise again his Name and Family in the World; but Imprisonment makes him utterly useless to himself, his *Posterity*, and the *Generation* wherein he lives: Therefore questionless, An *Heirship* of the Liberty of a mans Person, is fare better then the Descent of a great estate.

10. If no Imprisonment, then very few or no desperate Debts contracted, for who will then lend but upon pawn; If any do, it is at his own perill, And men having no Credit, because no pawn, must fall to Labour, and industry to get their living, Credit, and pawn; And this is the best way to remedy the *Epidemical* diseases of our time, (viz. Idleness, Beggary and Debauchery) for a great part of Prisoners are upon the score of Debauchery, &c.
11. Take away Imprisonment, and there needs no *Prosecutions*, which occasions often Murmurings, and sometimes abuses in Counterfeiting them.
12. If it be objected, no Credit, no Trade; 'tis answered, Trade must go on, And if Usurers will not trust, let they themselves venture their Stock at Sea and Land, but if they will not do that, but will venture upon the industry of other persons, let it not be to the suffering of the Persons whom they trust, who are (if good returns be made) their best Tenants and Servants.
13. No man will deny but that where there is most trade, there is also most Debt contracted. The Town of *Amsterdam* is one of the greatest Towns for Trading in *Europe*, and their Stock in Cash Great, so that interest there goes very Low, yet not the hundredth part of the Merchandize, so that all the rest goes upon trust: and yet few of the *Debtors* (proving insolvent) are Prisoners, except it be upon some Contempt, Their Policy or Mercy extends yet farther; for doth a man indebted, find himself decay-

ing, He goes to the *Magistrate* appointed for that purposes  
And (upon *Oath*) delivers to him his estate, and full Ac-  
count thereof, for the use of his Creditors; unlesse his  
Creditors prove him perjured, he is absolved from them;  
And what estate he can after acquire, is his own, and he  
left to make farther Payment, (which proves very often  
as his conscience directs.) By this means men are re-  
covered and enabled for the Good of themselves, rela-  
tions, and Creditors, not buried a live in Noisome  
Jayles.

All Writs and Process in Law are truely intended for  
Remedy, and Redress, not for Revenge, Oppression,  
and Wrong; as the practice is now a dayes, and is it not  
monstrous in Nature and reason, That a man should be  
allowed a Replevin, to save his beast from starving in a  
Pound, and that man himself onely should be shut up  
in Prison to perish without Hope, or Relief.

Note.

B*The*

*The mischiefs attending Outlawries transcend  
that of the Capias, Bills of Middlesex and La-  
titats, &c.*

*Mir. Cap. I.  
Sect. 3.*

*Cap. 5. Sect. I.  
Cook Inst. I.  
fol. 128. 6.*

*Cook 2. Inst. 1.  
fol. 46.*

*Cooke's 1. Inst.  
f. 128. 6.*

*Braet. lib. 5.  
fol. 421.*

*I.  
All the Nobi-  
lity and Peers  
of the Realm,  
are liable to  
this as well  
as the Com-  
monalty; and  
the person of  
a Peer being  
Outlawed is  
liable to Ar-  
rests and re-  
straints, as  
well as the  
Commoners.*

**O**utlawed Persons are said to be *Uslegati*, that is, *Extra legem positi*, deprived of the benefit of the Law, the Penalty whereof was great, and so great, that in the Reign of King *Alfred*, and a good while after the conquest, no man could be *Outlawed*, but for Felony, the punishment whereof was death.

In *Braetons* time and somewhat before; Process of Outlawry was ordained to lie in all Actions, that were *quare vi, & Armis*, which *Braeton* calleth *Delicta*, for there the King should have a Fine.

By divers Statutes since made, As the Imprisonment of mens persons by *Capias*, Bills of *Middlesex*, *Latitats*, and *Capias ad satisfaciendum* after judgement, hath by degrees crept in, to the alteration of the Common Law, in Actions of Accompt, Debts Detinue, Covenant, Actions upon the Statute of 5. Rich. 2. And Actions upon the *Cave*, and in divers other Common or Civil Actions: So Outlawries of mens Persons thereupon hath ensued; But

the mischiefs that attended the Outlawry of mens Persons, do transcend those of Arrests and Imprisonments of mens Persons, Far,

First, By Outlawries before and after judgement, the Debtor suffers more then in any other thing yet known in *England*, yea more then by Man-slaughter, or Petty Larceny; for in all these things the Subjects are allowed a defence, But for this none; In all Courts, and for all Actions, the Persons concerned, must have cognizance of the proceedings, something must be committed: But an Outlawry ( though supposititious and fictitious) is sufficient alone to serve the turn; for the de-

destruction of the party Outlawed; The Delinquents in Criminal Acts, for some Causes, forfeit but Chattels, and personal estate onely, and for those a Pardon of course for suing out: But upon an Outlawry the Debtors Chattels and personal estate are wholly lost, and the real estate, seized and extended for the King (who is not six pence a year benefitted) nor the Creditors one farthing. The mean profits not being in any part discounted for the Debt; and yet the Outlawed Person destroyed, and all his Creditors defeated of their just Debts, if the Debt be small the cure is worse then the disease, If a great one, the Debtor is never able to give in security ~~the~~ Reverse the Outlawry, and free the Extent upon the Outlawry, but perishers inevitably, and not a penny Cheques of the Debt lessened to the Creditor, or abated to the Leases. Debtor; nor the Kings Majesty above 5. or 10. lls. a year enriched, and that consumed in Fees also.

The poor Outlawed Debtor can neither sue for, nor recover any Debt, or Rent due to him; Or try any title, for recovery of any estate, or let any Lease, or make his last will and testament, or do any other Act to help himself, or his Family after his death, neither can the Son reverse the Fathers Outlawry after his death; so that once Outlawed after judgement or otherwise, and the whole Family is ruined for ever, and none but Sheriffs, Bayliffs, and their Officers and appendants, one farthing the better, neither can the Outlawed person sue or impleade his Oppressor and all this for Debt, (which is no Crime,) And yet Criminous persons are not Subject to, or oppressed with such merciless extremities, neither is it possible for, or in the power of any man, how provident, or clear from Debt soever, to prevent and free himself from this snare and pitfall of destruction.

A Ward might call his *Guardian* to Accompt, and was privileged from being sued in other Courts, and had Protection both of his Person and estate, but here is no

Accompt for profits, nor right for wrong, no Protection of person, but oppression in all; and barred from all relief, and remedy (yea even so much as to complaine) so as the Mischief of the Outlawry transcends the *Capias*, in that the *Capias* attaches the person onely, the Outlawry Body, Lands, and Goods.

4.  
S. John Mitchells Case.

If two or three joyn to lend 100. l. or 1000. l. more or less to a third person and one of the Creditors Outlawed (though perhaps unknown) the whole Debt is forfeited to the King, and the Debtor cannot pay any of the three or two, which lent the money, so that those that are not Outlawed have lost their money, and forfeited their Debt, aswell as he, that is Outlawed.

Contrary to justice, that he that hath not offended should be punished, every mans con-

The like for Tenants in Common, if any of them be Outlawed, the whole estate of the other Tenants becomes forfeited and seized for him that is Outlawed, And the other Tennants not Outlawed shall have no remedy, nor can reverse the others Outlawry, being none of theirs; And any man may be Outlawed upon pretence of Debt, detinue, or Trespass, whether true, or false, and never know of it; the Outlawry may lie undiscovered, and the Person die under that danger to the destruction of his posterity.

5.  
9. H. 6. 20.  
49. E. 3. 5.  
4. H. 7. 17.  
Forfeitures are in the King.

Forfeitures by Outlawes go to the Crown, without benefit to the party, whose satisfaction the Law intends; And the parties thus Outlawed, are without remedy against the party that doth the wrong, and without relief as to the King, for forfeited Goods and Chattels, if not (*ex gratia*)besides the injury done in fleecing these Goods by Bayliffs, under-Sheriff, &c. who share with the King in the greatest proportion of such forfeitures.

6.  
38. E. 3. 22.  
16. E. 4. 4.  
Brook vnl. 17.  
20. H. 20.  
21. H. 7.  
13. Aff p. 5.  
5. H. 6. 20.

Outlawries bring the freehold under seizure and extents, and is exceeding chargeable to pleade unto, and to reverse, and the use which is made of seizures and extents thereon, is known to be little availeable towards satisfaction of Creditors their just Debts, but absolute de-

destruction to the Outlawed persons : The parties Outlawed may be sued, but cannot sue for his own; Outlawries being disablement in Law ; 'tis hard to pay where men cannot receive.

These mischiefs by the corruption of Practize have crept in under this Act of 25. Edw. 3. Notwithstanding upon complaint of the people in the 44th. year of the same King Edw. It was repealed, and the Subject remitted to their former Right, according to the Common Law, and *Magna Charta*, save onely for such as were Accomptants to the King.

It is not unknown to all judicious , that by the Common Law of this Nation no mans person could be Arrested in Debt or detinue, &c. the Lands Goods, and chattels of the Debtor were onely liable to Execution , which the Law allows for satisfaction of Creditors ; And former times, in Cases, of Debt between Party and Party rested thereupon, the Person of the Debtor being in strict imprisonment payes not the Debt to the Creditor but most times serves the malice of the Creditor onely : And it cannot be denied that the Lords now living and (as Peers) freed from Arrests, yet pay their Debts out of their estates, as well, and better, then such as are prisoners can doe; which very president (obvious to all) makes it appear that imprisonment doth not advantage, but prejudice the Creditor, and serves onely to enrich the Jaylors, &c. By whom the prisoner is ruined: the foregoing mischiefs, troubles , Losses, oppressions and damages considered which doth daily happen by the villainous crew of Bayliffs, Serjeants Jaylors,&c. to the enslaving and oppression of the Subjects ; And all derived from that Act of 25. Edw. 3. *Malebridg.* And how repugnant the present practice is to the known Laws of the Realm, it will plainly appear that this one Nation is impoverished yearly by Sheriffs, Bayliffs, Serjeants, Marshalls men, Proceſſ makers, *Habeas Corpus*, day Writs, rules, Waiters, keepers, Jaylors, Wardens, with Bribing Sheriffs their deputies and Bayliffs for intelligence, and forbearing of Arrests,

The Act of  
25. Edw. 3.  
repealed, save  
to Accompts  
to the King.

*Cook 2. Inf.*

*fol. 394.*

*Vide Cooks*

*part 2. 3. 12.*

*H. 4. 1.*

*cap. 23.*

More then one Million of mony spent yearly to enslave the Nation. rests, and persecutions besides the personal injuries and vilanies put upon men of all conditions by these tormentors more then one Million of pounds yearly in ready Coyn, for which the Creditors are not the better one penny and were better saved towards their satisfaction.

In short, that the practice now on foot ( upon the *Capias Bills of Middlesex Latitats and Outlawries* , may be the more triumphant to the enslaving of all, it speaks thus.

Outlaw a Nobleman and he is made incapable to sit in the House of Peers, till the Outlawry be reversed, and may be Arrested as a Common person, being Outlawed, all his Goods and Chattels are forfeited, appraised, and sold by an under Sheriffe, and his real estate is brought under extent.

No Outlaw ed person can be a Justice of peace, Con stable or ty thing-man. Outlaw a Clergy man of what degree or Qualification so ever , and his living and personal estate are both forfeited together, and by any under-Sheriff seized and sold as aforesaid if he be in his Bailywick , and his person imprisoned if Arrested.

Church-war den, or other Officer, or Jury-man. Outlaw a Gentleman and it is the same, his person and estate both real and personal forfeited, and himself (if Arrested) a Prisoner.

Outlaw any Lawyer and he is made uncapable to pleade at the Bar, his Person (if Arrested) imprisoned , and his estate both real and personal, the one extended, the other forfeited.

Outlaw any Citizen, rich in Stock, as a Merchant, Jeweler, Goldsmith or any other eminent Tradesman , what he hath is forfeited , and himself a prisoner, if arrested.

Outlaw any man, and he is liable to all scorne, scandals and reproaches, to assault, Battery, Bastinadoe, and hazard of his life without remedy.

All men may be Arrested, and Outlawed under feigned actions, by created and supposititious names, to their utter undoing, and never find out either Plaintiff, or Attorney, to recover their damages.

Now the freeing, discharging and setting at Liberty all Prisoners now in Prison , and under restraint for Debt, and the

the Repealing of this Act of the 25 of *Edw.* 3. and all others, and the taking away all Arrests and Outlawries, and the sad consequents and effects thereof (so much contrary to *Magna Charta*, Petition of Right, and the Common Law elder then both,) is the matter aimed at, and humbly prayed for; that so the subjects may be remitted and restored to their former Laws *ab origine*; And its no new thing, when the continual Repealing in all Ages of divers Statutes, when found inconvenient, or against the Common Law, makes it manifest.

As, Tenure in Villinage.

Mortmaines on Abbies.

Knights Templers, and St. Johns.

The Banishment of the Jews 9. *Edw.* 1.

The Courts of Wards & Liveries, and divers others.

And it may be enacted that no person whatsoever for the future shall be arrested or out-lawed for any matter or thing whatsoever (not criminous) in the Act of 25<sup>th</sup> of *Edw.* the 3. and other Acts contained, for the avoyding the manifold mischiefs aforesaid, and the slavery in general introduced upon the whole Nation by the imprisonment of mens persons for Debt, may be abolished; Reserving to his Majesty all such Fees and other Profits upon Writs of *Summons* and other Proceses thereupon, as have been, or are payable upon the *Capias*, Bills of Middlesex, Latitats &c. without Diminution of any the Profits arising thereby to the Crown.

The deep sense his late Majesty (of ever blessed memory) had of the aforesaid Grievances, and many more his Peoples sufferings in the same sad condition made him intend to have recommended the condition and enlargement of Prisoners for Debt, and the abolishing of all Arrests & Out-lawries for the future to the then Parliament, and can it be doubted that his now Majesty (whom God long preserve) is lesse sensible, that the same sad & lamentable effects haye of late with much great-

er Severity , and do yet attend and wait upon , or may in time happen to most men already fallen , or that may fall into and under Arrest and imprisonment .

Divers whereof have in the late intestine Warres not only adventured their lives , but in the Casualties thereof , and for their Loyalty and faithful service to his late Majestie , and his Majestie that now is , have been forced to pawn , or Mortgage their Estates , & (by the advantages taken thereupon for their forfeitures thereof) even to loose the same ; The Avairice and Cruelty of most Creditours being such , as that they refuse to accept their Principal money with moderate interest .

And divers also , whose Estates (by the late Committees of *Haberdashes-hall* , *Worcester* and *Drurie* houses) were sequestred and sold and inbezled , being left to recover the same by due course of Law , are yet (after a verdict had , and judgement obtained , to be restored to their rightful possessions) defeated and kept out by Writs , pretending Error in the proceedings and such other vexatious Delaines , on purpose to continue the Possession of their Estates to such as unjustly obtained the same as aforesaid ; such is the Lot and Condition of divers poor , loyal , distressed prisoners , by and under the Corruption of practise now used , whereby they have been , and are exposed to many grievous Wants in noisome Jayles and Prisons , where they are so used (if they want moneys to pay Fees or chamber rents , that most of all they either had , have , or may have , is or will be wrested from them , to the total ruine of themselves , their wives and children , contrary to the Laws of God , Nature , most Nations , *Magna Charta* , Petition of Right , and other the known Lawes of the Land .

The notorious Grievances of Writs of Error as now practised  
there being above 1200 at this time brought against executors.

And that the Exhorbitant abuses by Writs of Error now grown too frequent & most intollerable as in the case above mentioned and many more , to the great Scandal and Reproach of the Law , and the due practise thereof may be speedily enquired into and redressed , and that full and ample Satis-

Satisfaction for damages sustained thereby awarded to disabled Ejectors and others sustaining wrong therein. And that there may be an exemplary punishment inflicted on all dilatory, vexatious, and fraudulent practises of this kind and condition.

May it then please His Sacred *M A F E S T R*, and great Council now assembled in Parliament to take the premises into consideration, and that mens persons now charged in prison, and chargeable with no other Crime than poverty ( occasioned for the most part , by the distractioms, cruelties and slaveries aforesaid ) may not be the onely persons cast off, and set by, as incapable either of Memory or mercy , and in their great wisdomes not only to provide against , and redress the greivances aforesaid; But also establish some fit and ready expedient by Arbitration or otherwise to relieve and enlarge the distressed condition of many poor prisoners as aforesaid as their several Causes and Cases may require; especially now in this day of *Englands* great Jubilee , and universal grace extended to all offenders and offences, That mens persons in durance for Debt, may be set at Liberty and all Arrests for the future taken away , that Imprisonment may not obstruct mens endeavours either at present or hereafter, but that they may have their Liberty to employ their industry, and improve their estates for payment of their Debts as God shall enable them.

Considering withall how much Terror and sorrow of heart the people of this Realm in general, lie under, who now hide themselves, and languish to death under the fear of Imprisonment, and Arrest , consuming all their fortunes , not daring to shew themselves to Manage them to their best advantage, towards payment of their Debts , or otherwise for fear of Sheriffs, Bayliffs Serjeants, &c. The Subjects and their posterities (by this means) being Subject to slavery, liable to all Arrests, Im-

prisonments, and Outlawries, and on all Accidents, to Beggary, and Bondage at every mans will and pleasure; on the contrary upon the passing of an A&t of Grace in these particulars depends the Good and welfare of the peoples; The whole Nation being manumitted and enfranchised in their persons, restored in Laws, secured in estates, and of a base, and slavish Nation made Noble and free, as they were before the A&t of the 25th of Edw. the 3. was had.

To conclude if Traytors and Felons of all sorts expect remission and Pardon of their offences upon the blessed restoration of his Sacred *Majesty*; How is it to be doubted, but that the good Subjects of this Land and Nation (not Criminous) shall find remedy and redresse, and be relieved from their sad and Lamentable Thralldome and Bondage, especially when the known Law or Equity affords the Creditor, power, for recovery of his just Debts upon the Debtors real and personal estate, which is at the dispose of the Creditor for his satisfaction. And this one A&t of Grace will be accounted by all good men, and their posterities a sufficient recompence for all the Subjects past sufferings, being the greatest Mercy that ever King of England extended to his subjects since they were a Kingdome.

The reasons offered against these grand mischiefs are to move the Charity and relief, not the dispute of our Superiors in Authority: when the righteous are in Authority, the people rejoice; they consider the Cause of the poor, the Prisoners and oppressed, but the wicked regard it not; when the wicked beare rule, the people mourn.

Many especially those  
that were thrown out  
of their estates by the  
illegal Or-  
ders of those  
called the  
Committee of obstructions,

These are the sad Grievances of the Bills of *Middlesex*, *Latitatis*, *Capias*, Outlawries and *Writs of Error*, all which, though

though the *last of all* at this time (before the Crop is off ~~is off~~) most requires both serious consideration and present remedy; least *injustice* and oppression prevail, and for want of timely relief divers persons with their Families be not only undone but inevitably perish.

*Det Deus his quoque finem.*

